

02/05/2006

PLOUG5.001APC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kragh et al.
Appl. No. : 10/560,093
Filing Date : December 9, 2005
For : OPTICAL AMPLIFICATION IN
MINIATURIZED POLYMER
CAVITY RESONATORS
Examiner : Unknown
Group Art Unit : Unknown

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450, on

September 29, 2006

(Date)

Eric S. Furman, Ph.D., Reg. No. 45,664

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop PCT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition the Patent and Trademark Office to withdraw the Notification of Abandonment mailed September 5, 2006, in the above-referenced application based on the following facts. On March 1, 2006, the PTO mailed a Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), and set a two month period for response. Please see the attached copy of the Notification. The paper states that "the time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 C.F.R. 1.136(a)."

37 C.F.R. 1.136(a) states, in part, that:

“an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed.” (Emphasis added).

M.P.E.P. 710.02(d) states, in part, that:

“the 2-month time period for reply to A Notice to File Missing Parts of an Application is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions of time of up to 5 months under 37 CFR 1.136(a), followed by additional time under 37 CFR 1.136(b), when appropriate, are permitted.”

35 U.S.C. 133 states that:

“upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable

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Because the Notice of Missing requirements is a non-statutory action, the initial two month response period may be extended an additional five months, which would establish **October 1, 2006** as the final response deadline. Thus, in the present case, the mailing of a Notice of Abandonment on September 5, 2006, was clearly in error. Accordingly, Applicants respectfully submit that the holding of abandonment be withdrawn.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 29, 2006

By: 

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UNITED STATES PATENT AND TRADEMARK OFFICE

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CONFIRMATION NO. 1093

371
ABANDONMENT/TERMINATION
LETTER

OC000000020298554

Date Mailed: 09/05/2006

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- No reponse to Missing Requirement Letter

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)